

EXHIBIT D

Transcript of Plea Hearing

1 o'clock.

2
3 (Whereupon, a lunch recess was taken)

4
5 THE COURT: On the record.

6 MR. PORTER: Your Honor,
7 Ms. Blevins, I would like for her to
8 interpret. There's always been -- he's
9 kind of broken on English and I don't want
10 any errors or anything to come back on
11 us.

12 THE COURT: CC 2003-106, we
13 are in the midst of a suppression
14 hearing. I now understand, Mr. Macedo,
15 that you don't speak perfect English but
16 you've got Ms. Blevins here so if I say
17 anything that you don't understand, you
18 can ask her what I said, what I meant by
19 it and she'll interpret what I said to
20 you.

21 (Ms. Blevins interprets for the Defendant).

22 MR. PORTER: Make sure he
23 speaks for the Court.

24 (Ms. Blevins interprets for the Defendant).

25 THE COURT: Mr. Macedo is

1 here with his attorney, Mr. Porter. It's
2 my understanding, Mr. Macedo, that you
3 want to change your plea from not guilty
4 to guilty based upon this plea agreement;
5 is that correct?

6 (Ms. Blevins interprets for the Defendant).

7 THE COURT: Tell me what he
8 said.

9 MS. BLEVINS: He said yes,
10 he understands.

11 THE COURT: My understanding
12 is that you will plead to trafficking and
13 methamphetamine under count number one?
14 (Ms. Blevins interprets for the Defendant).

15 MS. BLEVINS: Yes.

16 THE COURT: In return for
17 entering that plea, I will sentence you to
18 ten years as recommended by the State,
19 split with eighteen months to serve.
20 (Ms. Blevins interprets for the Defendant).

21 MS. BLEVINS: Yes. Okay.

22 THE COURT: That would be
23 served in the State Penitentiary. You
24 would also be ordered to pay court cost,
25 fifty dollar Crime Victim Compensation

1 assessment, one hundred dollars to the
2 Forensic Science Trust Fund and a thousand
3 dollar Drug Command Reduction assessment.

4 There's something else left
5 off here, Mr. Porter. He wasn't ordered
6 to pay the attorney's fees.

7 MR. PORTER: Yes, I did
8 instruct him that that was part of the
9 cost.

10 THE COURT: That you would
11 also be ordered to reimburse the State for
12 your appointed attorney's fees.
13 (Ms. Blevins interprets for the Defendant).

14 MS. BLEVINS: He understands
15 it.

16 THE COURT: The sentence
17 that you will be given will be split
18 eighteen months to serve, the balance will
19 be suspended and you will be placed on
20 unsupervised probation for a period of
21 three years.
22 (Ms. Blevins interprets for the Defendant).

23 MS. BLEVINS: Yes, he
24 understands.

25 THE COURT: You will have to

1 register as a felon as required by Alabama
2 law.

3 (Ms. Blevins interprets for the Defendant).

4 MS. BLEVINS: Yes, he
5 understands.

6 THE COURT: Count two of
7 unlawful possession of drug paraphernalia
8 will be dismissed no cost.

9 (Ms. Blevins interprets for the Defendant).

10 MS. BLEVINS: He
11 understands.

12 THE COURT: Is that your
13 signature on this plea agreement?

14 (Ms. Blevins interprets for the Defendant).

15 MS. BLEVINS: Yes.

16 THE COURT: Is this,
17 Mr. Porter, your signature?

18 MR. PORTER: Yes, Your
19 Honor.

20 THE COURT: It is signed by
21 Mr. Bryant for the State.

22 MR. PORTER: He asked me so
23 he'd understand from you that he gets
24 credit for time served, the eleven months
25 he's already served.

1 THE COURT: Yes, sir, he
2 gets credit for the time that he's been in
3 jail pending the trial.

4 (Ms. Blevins interprets for the Defendant).

5 THE COURT: As part of this
6 plea, you are agreeing to waive your right
7 to appeal or seek post conviction relief.
8 Is that your signature?

9 (Ms. Blevins interprets for the Defendant).

10 THE DEFENDANT: Si.

11 THE COURT: You understand
12 by signing that, and, Mr. Porter, you've
13 signed it that you've gone over with him,
14 that you are waiving your right to appeal
15 or seek post conviction relief?

16 (Ms. Blevins interprets for the Defendant).

17 MS. BLEVINS: He's in
18 agreement.

19 THE COURT: You have also
20 filed a notice and waiver of indigency
21 status. Is that your signature there,
22 and, Mr. Porter, you have signed it?

23 MR. PORTER: Yes, sir.

24 (Ms. Blevins interprets for the Defendant).

25 THE DEFENDANT: Si.

1 MS. BLEVINS: Yes.

2 THE COURT: By signing that,
3 you have agreed that this money that as
4 part of a plea agreement that you said you
5 would pay if I accepted a plea and
6 sentenced you in accordance therewith and
7 you will pay that and not claim that you
8 are unable or can't afford to pay it.
9 (Ms. Blevins interprets for the Defendant).

10 MS. BLEVINS: He
11 understands.

12 MR. PORTER: Your Honor, I
13 noticed when you picked that up on the
14 back of the document that he signed that
15 he misdated it. I want to make sure we
16 understand the day the is 4th.
17 (Ms. Blevins interprets for the Defendant).

18 THE COURT: I understand you
19 have some time left to serve and you can't
20 pay while you are in jail so your payments
21 on this will begin when you are released
22 on probation.

23 (Ms. Blevins interprets for the Defendant).

24 MS. BLEVINS: He
25 understands, Judge.

1 THE COURT: I have an
2 explanation of rights and plea of guilty
3 form here. Is that your signature there?
4 (Ms. Blevins interprets for the Defendant).

5 THE DEFENDANT: Si.

6 MS. BLEVINS: Yes.

7 THE COURT: Mr. Porter, you
8 have signed it?

9 MR. PORTER: Yes, Your
10 Honor.

11 THE COURT: The front of
12 this form explains that trafficking in
13 methamphetamine is a Class A felony. As
14 such, it carries a penalty of 10 years to
15 99 years or life.
16 (Ms. Blevins interprets for the Defendant).

17 MS. BLEVINS: Yes.

18 THE COURT: Or it could be a
19 fine of twenty thousand dollars and/or it
20 could be both of those.

21 (Ms. Blevins interprets for the Defendant).

22 MS. BLEVINS: Yes.

23 THE COURT: Crime Victim
24 Compensation Assessment is mandatory. The
25 minimum is fifty dollars, the maximum is

1 ten thousand dollars.

2 (Ms. Blevins interprets for the Defendant).

3 THE COURT: The Drug Command
4 Reduction Assessment is mandatory. For
5 a first time offender, it's a thousand
6 dollars. For each second and subsequent
7 offense, it is two thousand dollars.

8 (Ms. Blevins interprets for the Defendant).

9 THE COURT: In addition, you
10 lose your privilege to drive a motor
11 vehicle for a period of six months. If
12 you have a driver's license, you will have
13 to turn it in to me today.

14 (Ms. Blevins interprets for the Defendant).

15 MS. BLEVINS: He doesn't
16 have any license, Judge.

17 THE COURT: On alcohol and
18 drug related offenses, you can be ordered
19 to attend and complete a drug treatment
20 program, submit to random drug tests as a
21 condition of any probation and/or parole.
22 Do you have a drug problem that you need
23 treatment for?

24 (Ms. Blevins interprets for the Defendant).

25 THE DEFENDANT: No.

1 MS. BLEVINS: He doesn't
2 have a drug problem, Judge.

3 THE COURT: On the back of
4 the page it explains that they are
5 collecting DNA samples from people
6 convicting of various criminal offenses
7 and you may be required to give one.

8 (Ms. Blevins interprets for the Defendant).

9 MS. BLEVINS: Okay.

10 THE COURT: And then it
11 explains that in addition to all other
12 fees on drug cases, there is one hundred
13 dollars to be collected for the Forensic
14 Science Trust Fund that is mandatory.

15 (Ms. Blevins interprets for the Defendant).

16 MS. BLEVINS: Yes.

17 THE COURT: The middle of
18 the page here it explains your
19 constitutional rights that you have and
20 that you waive when you enter a plea of
21 guilty. Basically that is a right to have
22 a trial before a duly selected jury where
23 the burden of proof is on the State to
24 prove you guilty beyond a reasonable doubt
25 and you come to court presumed innocent.

1 (Ms. Blevins interprets for the Defendant).

2 MS. BLEVINS: He
3 understands.

4 THE COURT: Your attorney
5 would do everything he could to see that
6 you receive a fair and impartial trial.
7 (Ms. Blevins interprets for the Defendant).

8 MS. BLEVINS: He
9 understands.

10 THE COURT: The bottom of
11 the page here right above where you have
12 signed it says that you understand your
13 rights, the charges against you, the
14 punishments involved and the consequences
15 of pleading guilty.
16 (Ms. Blevins interprets for the Defendant).

17 MS. BLEVINS: He
18 understands.

19 THE COURT: Further, it says
20 you are not under the influence of any
21 drugs, medicines or alcoholic beverages
22 and that no one has forced you or coerced
23 you, offered you any inducement reward or
24 hope of reward other than what I went over
25 with you in this plea agreement.

1 (Ms. Blevins interprets for the Defendant).

2 MS. BLEVINS: He
3 understands.

4 THE COURT: Further it
5 states that you are doing this because you
6 are guilty, desire to plead guilty, that
7 you've made a knowing, voluntary,
8 intelligent decision to waive your rights
9 and enter this plea and that you are
10 satisfied with your attorney's services.
11 (Ms. Blevins interprets for the Defendant).

12 THE DEFENDANT: Si.

13 THE COURT: Is all that true
14 and correct?

15 (Ms. Blevins interprets for the Defendant).

16 THE DEFENDANT: Si.

17 THE COURT: Mr. Porter, you
18 have signed the attorney's certificate
19 that you have gone over it with him with
20 the assistance of Ms. Blevins explaining
21 it to him. Are you satisfied he
22 understands, that he's making a knowing,
23 voluntary and intelligent decision to
24 waive his rights and enter this plea of
25 guilty?

1 MR. PORTER: Yes, Your
2 Honor.

3 THE COURT: Do you have any
4 question to me about your rights before I
5 go forward, Mr. Macedo?

6 (Ms. Blevins interprets for the Defendant).

7 MS. BLEVINS: He doesn't
8 have any questions, Judge.

9 THE COURT: Count one of the
10 indictment says that you did knowingly
11 sell, manufacture, deliver or bring into
12 this State or that you were knowingly in
13 actual or constructive possession of 28
14 grams or more of methamphetamine or some
15 mixture containing methamphetamine.

16 (Ms. Blevins interprets for the Defendant).

17 MS. BLEVINS: Yes.

18 THE COURT: Were you a
19 resident of Cullman County on or about
20 April 3, 2002 residing at 429 Cleveland
21 Avenue?

22 (Ms. Blevins interprets for the Defendant).

23 MS. BLEVINS: Yes.

24 THE COURT: And at that time
25 did the Cullman County sheriff's office

1 come to arrest you on some outstanding
2 failures to appear on traffic tickets that
3 had been issued to someone using the name
4 Jose Macedo?

5 (Ms. Blevins interprets for the Defendant).

6 THE DEFENDANT: Si.

7 MS. BLEVINS: That's
8 correct.

9 THE COURT: And while at
10 that residence and after they placed you
11 under arrest, did they talk to Sherri Nava
12 and she gave them permission to search the
13 residence occupied by you and her?
14 (Ms. Blevins interprets for the Defendant).

15 THE DEFENDANT: Si.

16 MS. BLEVINS: Yes.

17 THE COURT: And in
18 conducting that search, after she
19 consented, the Cullman County sheriff's
20 office found 111 grams, approximately, of
21 a substance containing methamphetamine?
22 (Ms. Blevins interprets for the Defendant).

23 THE DEFENDANT: Si.

24 MS. BLEVINS: Yes.

25 THE COURT: Was that your

1 methamphetamine or you knew it was there
2 and you were in constructive possession
3 thereof?

4 (Ms. Blevins interprets for the Defendant).

5 THE DEFENDANT: Si.

6 MS. BLEVINS: Yes.

7 THE COURT: I'll ask you how
8 you plead to the charge of trafficking in
9 methamphetamine?

10 (Ms. Blevins interprets for the Defendant).

11 MS. BLEVINS: He is guilty,
12 Judge.

13 THE COURT: On your plea of
14 guilty, the Court will adjudge you guilty
15 of trafficking in methamphetamines as
16 charged in count one of the indictment.

17 (Ms. Blevins interprets for the Defendant).

18 MS. BLEVINS: Okay.

19 THE COURT: Is there
20 anything that you would like to say before
21 I sentence you?

22 (Ms. Blevins interprets for the Defendant).

23 MS. BLEVINS: No.

24 THE COURT: I will sentence
25 you in accordance to the plea agreement

1 that I went over with you, Mr. Macedo, and
2 that is to 10 years split. You will serve
3 18 months. You will be given credit for
4 the time you've been in jail against that
5 18 months. The balance will be suspended
6 and you will be placed on unsupervised
7 probation for a period of three years.
8 (Ms. Blevins interprets for the Defendant).

9 THE DEFENDANT: Si.

10 THE COURT: Within 30 days
11 of your release, you are further ordered
12 to pay all court cost, a fifty dollar
13 Crime Victim, a hundred dollars to the
14 Forensic Science Trust Fund, a thousand
15 dollars to the Drug Demand Reduction
16 Assessment and to reimburse the State
17 for your appointed attorney's fees. If
18 you're unable to pay that in full within
19 30 days, then you should at least commence
20 to making payments on some of it.
21 (Ms. Blevins interprets for the Defendant).

22 MS. BLEVINS: He understand
23 that he is to make the payments, Judge.

24 THE COURT: Does he wants to
25 set a payment now?

1 (Ms. Blevins interprets for the Defendant).

2 MS. BLEVINS: Judge, he says
3 right now he don't know how much he could
4 pay.

5 THE COURT: Well, he doesn't
6 need to forget. He needs to come in and
7 set up a payment plan or make some payment
8 for it. Because if he doesn't, it will be
9 turned over to collection to the district
10 attorney and a 30 percent collection fee
11 would be added to it.

12 (Ms. Blevins interprets for the Defendant).

13 MS. BLEVINS: He
14 understands, Judge.

15 THE COURT: You'll also have
16 to register as a felon and count two is
17 being dismissed, no cost.

18 (Ms. Blevins interprets for the Defendant).

19 THE COURT: Once you
20 complete the 18 months and you're placed
21 on the suspended sentence, it is
22 unsupervised probation. The terms and
23 conditions of which is you start making
24 payments on the monies that you've got to
25 pay, that you not be back before this

1 Court on another new felony offense of any
2 nature. If you are and I'm reasonably
3 satisfied after a hearing that you've in
4 fact failed to make some payments toward
5 this or failed to stay out of trouble by
6 committing any new felony criminal offense
7 after a hearing, I was reasonably
8 satisfied, I would revoke you and make you
9 serve the balance of this sentence.

10 (Ms. Blevins interprets for the Defendant).

11 MS. BLEVINS: Okay.

12 THE COURT: Does he have any
13 questions that he wants to ask at this
14 time?

15 (Ms. Blevins interprets for the Defendant).

16 MS. BLEVINS: No.

17 THE COURT: Thank you.

18 That's all.

19
20 END OF PROCEEDINGS
21
22
23
24
25